

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL REVISION APPLICATION No 340 of 1998

For Approval and Signature:

Hon'ble MISS JUSTICE R.M.DOSHIT

=====

1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

GOPALI D/O DILIPKUMAR RMANBHAIPATEL

Versus

NAINESH MADANMOHAN PATEL

Appearance:

MR BHARAT T RAO for Petitioner

MR MM TIRMIZI for Respondent No. 2 & 3

MR SR DIVETIA APP for Respondent No. 4

CORAM : MISS JUSTICE R.M.DOSHIT

Date of decision: 15/06/98

ORAL JUDGEMENT

Rule returnable today. Leave to delete respondent No.1. Mr. Tirmizi, the learned advocate appears and waives service of Rule for respondents Nos. 2 and 3. Mr. Divetia, the learned APP appears and waives service of Rule for respondent No. 4.

This application arises of the order dated 22nd May, 1998, made on Criminal Misc. Application No.520/98, by the learned Additional Sessions Judge, Vadodra.

It appears that the petitioner is the wife of respondent No.1 who is resident of United States of America and the respondents Nos. 2 and 3 are the parents of the respondent No.1. The passports of the respondents Nos. 2 and 3 are lodged with the learned JMFC Vadodra. Since both the respondents Nos. 2 and 3 intend to visit United States of America for renewal of their Green-Cards, they had made an application being Misc. Criminal Application No. 520/98 for temporary release of their passports. Under the impugned judgment, the learned Additional Sessions Judge has directed the release of the passports of the respondents nos. 2 and 3 on condition that it should be re-deposited with the learned Magistrate on the return of the respondents Nos. 2 and 3, failing which, they should be visited with the penalty of Rs.50,000/-.

Mr. Rao, the learned advocate appearing for the petitioner has expressed his apprehension that the respondents Nos. 2 and 3 may be granted Immigration Visa and they may not return at all. Mr. Tirmizi, the learned advocate appearing for the respondents Nos. 2 and 3 states that the respondents Nos. 2 and 3 shall return to India within four months from the date of their leaving Indian soil. On the facts and in the circumstances of the case, it would be just and proper to permit the respondents Nos. 2 and 3 to leave India on their filing an undertaking before this court to return to India within four months from the date of their leaving Indian soil and further directing them to pay a sum of Rs.1 lakh to the petitioner and her minor daughter. Mr. Rao states that if the order in the aforesaid terms is passed, the petitioner shall not press this petition and shall withdraw the same.

The impugned order dated 22nd May, 1998, made by the learned Additional Sessions Judge, Vadodra, on Criminal Misc. Application No. 520/98 is, therefore, confirmed with further condition that the passports of the respondents Nos. 2 and 3 shall not be released as directed till the respondents Nos. 2 and 3 give an undertaking to this court to the effect that they shall return to India within four months from the date of their leaving Indian territory, and till the respondents Nos.

2 and 3 deposit a sum of Rs. 1 Lakh (Rs. One Lakh only) by way of fixed deposit in a Nationalised Bank in the names of the petitioner-Gopali Dilipkumar Patel and her minor daughter Richa for a period of 12 months. It shall be open to the respondents Nos. 2 and 3 to argue before any court that the aforesaid amount deposited under this order, be treated as part of maintenance which the respondent No.1 may be required to pay to the petitioner and her daughter Richa.

In view of the aforesaid directions, Mr.Rao the learned advocate appearing for the petitioner seeks leave to withdraw this petition. Leave is granted. Petition is disposed of accordingly. Rule is discharged.

.....

JOSHI